

CWP-16086-2019 (O&M)

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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Date of decision : 19.07.2019

1. CWP-16086-2019 (O&M)

Pushpa Devi

... Petitioner(s)

Versus

State of Haryana and others

... Respondent(s)

2. CWP-18431-2019 (O&M)

Savitri

... Petitioner(s)

Versus

State of Haryana and others

... Respondent(s)

3. CWP-18906-2019 (O&M)

Ved Bala Madaan

... Petitioner(s)

Versus

State of Haryana and others

... Respondent(s)

4. CWP-18495-2019 (O&M)

Resham Singh

... Petitioner(s)

Versus

State of Haryana and others

... Respondent(s)

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5.

CWP-18595-2019 (O&M)

Nirmla Devi and others

... Petitioner(s)

Versus

State of Haryana and others

... Respondent(s)

6.

CWP-19398-2019 (O&M)

Rani and another

... Petitioner(s)

Versus

State of Haryana and others

... Respondent(s)

7.

CWP-19425-2019 (O&M)

Suraj Mukhi and others

... Petitioner(s)

Versus

State of Haryana and others

... Respondent(s)

8.

CWP-19401-2019 (O&M)

Kailash Chand and others

... Petitioner(s)

Versus

State of Haryana and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Chanderhas Yadav, Advocate;
Ms. Kamaljeet Kaur, Advocate;
Mr. R.N. Sharma, Advocate;
Mr. B.D. Rana, Advocate
Ms. Manjeet Kaur, Advocate for
Mr. S.K. Malik, Advocate
for the petitioner(s).

Ms. Shruti Jain Goyal, DAG, Haryana.

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AMIT RAWAL, J. (ORAL)

Notice of motion in CWP Nos.19398, 19425 and 19401 2018.

On asking of the Court, Ms. Shruti Jain Goyal, DAG, Haryana, who is present in Court, accepts notice on behalf of the respondent(s)/State.

This order of mine shall dispose of a bunch of eight writ petitions bearing CWP Nos.16086, 18431, 18906, 18495, 18595, 19398, 19425 and 19401 of 2019, on the premise that while sitting in roster of service matter, this Court has come across spate of writ petitions being filed everyday claiming regularization by pointing out adoption of pick and choose policy at behest of the Department, whereby the names of the petitioners being high in seniority, were not considered for the purpose of regularization, in other words, juniors to them have been considered.

It was also pointed that as and when, any affected party approached this Court, the Department takes action, only when there is any direction. It is, in these circumstances, this Court clubbed the matter and called the Director General, Secondary Education, Haryana. The aforementioned was noticed in CWP No.10686 of 2019 and various other writ petition and on the said day, Dr. Rakesh Gupta, Director General, Secondary Education, Haryana, handed over a copy of letter dated 28.05.2019 addressed to Director, S.C.E.R.T., Gurugram, Principal, DIETs/BITEs, all District Education Officers and all District Elementary Education Officers, indicating of setting up a Committee consisting of following persons, to consider and decide the cases of affected parties within a period of one month and pass order with regard to grievance expressed in the representations:-

i) District Education Officer/District Elementary Chairman

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Education Officer of concerned District

ii) Block Education Officer *Member*

iii) Principal/Headmaster of concerned schools *Member*

iv) Section Officer O/o DEO/DEEO *Member*

In pursuance to the aforesaid order, affidavit dated 18.07.2019 of Mr. K.K. Bhadoo, Additional Director (Administration), Secondary Education, Haryana, has been filed in Court today, wherein it has been brought to the notice of this Court that at earlier point of time, certain policies dated 30.12.1998 and 25.02.1999 were invoked, but they were on account of decision rendered by this Court, came out with regularization policy dated 11.11.2003, fixing criteria and eligibility for the purpose of regularization.

It has also been pointed out that under the directions of this Court, due to inadvertence, services of few employees have been regularized, though they were not falling within the zone of consideration or eligible in terms of the policy and expressed apprehension that in case, direction of this Court is to be complied with in letter and spirit, there may be likelihood of anomalous situation affecting the persons and therefore, sought the indulgence of this Court for giving an opportunity of hearing to those affected persons. Para No.9 of the aforementioned affidavit, reads as under:-

"9. That on the basis of erroneous regularization done in the past, similar benefits were granted in other few matters. If, the Hon'ble Court deems fit, it is proposed that Department may take corrective measures here onwards. It is also proposed that the competent authority may give reasonable opportunity to the Class IV part time employees who have been

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erroneously regularized and then pass appropriate speaking orders on merits. Further direction will be given to the District Education Officers to decide the further cases in a time bound matter and strictly as per the terms and conditions of the departmental policies."

It would be in the fitness of things to extract the contents letter dated 28.05.2019, which reads as under:-

"In context to the subjected cited above, it has come to the notice that there are so many CWPs/Directions/COCPs have been received in the Directorate, filed by different Class IV employees (Part Time) to consider their cases for regularization and grant them the arrear of pay w.e.f. 1.4.2011.

In this regard, it has been decided that the services of those employees who fulfill the terms and conditions as per policy dated 11.11.2003, may be regularized w.e.f. 1.4.2011.

It is specially mentioned here that the arrear of pay may be given only those employees who covered in view of the decision dated 10.1.2017 passed by Hon'ble Punjab and Haryana High Court in CWP No.14131 of 2016 titled as Mukesh Kumar and others V/s State of Haryana.

In compliance of the above, you are hereby directed that a committee may be constituted of the following officers/Officials:-

- | | |
|--|-----------------|
| <i>i) District Education Officer/District Elementary</i> | <i>Chairman</i> |
| <i>Education Officer of concerned District</i> | |
| <i>v) Block Education Officer</i> | <i>Member</i> |
| <i>vi) Principal/Headmaster of concerned schools</i> | <i>Member</i> |
| <i>vii) Section Officer O/o DEO/DEEO</i> | <i>Member</i> |

The above committee will check the complete cases of eligible employees and thereafter, may release the necessary due benefits and ensure that no such benefit is to be granted to the ineligible employee.

The above order may be complied with within a period of one month positively and report may be sent to the Directorate within the stipulated period.

If any lapses non-compliance of the Hon'ble Court orders will come to the notice to the Directorate, you will be fully responsible and strict disciplinary action will be initiated against the above cited committee. It may be treated as most urgent.”.

Learned counsel for the petitioners though express apprehension that the Department may not adopt pick and choose policy again.

I am afraid the aforesaid contention cannot be accepted, once the officer of the rank of Additional Director, Secondary Education, Haryana, has undertaken by way of affidavit to comply strictly with the policy dated 11.11.2003 as well as seniority maintained.

Accordingly, the writ petitions are disposed of with direction to the Competent Committee headed by District Education Officers in all the Districts, to consider the cases of all the employees/petitioners including the persons, whose writ petitions are pending or have not approached this Court so far, but represented or received representation and decide the same in terms of the policy dated 11.11.2003, by maintaining seniority as well as observations hereinabove, within a period of five months from the date of receipt of certified copy of this order.

It is also a matter of record that the Department has maintained seniority of the employees working on contractual/part time in various districts, thus, shall consider the representations strictly as per seniority list as well as policy, much less, in accordance with law.

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The Committee shall be at liberty to afford an opportunity of hearing, in case of any query or clarification sought from the concerned employee.

It is also made clear that in case, the reasons sought in contemplated action, are not satisfactory, this Court may not be constrained to impose exemplary costs on the members of the Committee.

The affidavit also contains list of pending Court cases (Annexure R-1) regarding regularization of Class IV part time employees.

On going through the list, it is deciphered that many writ petitions spanning from 2012, 2013, 2014, 2017, 2018 and 2019 are pending adjudication.

Keeping in view the undertaking expressed in the affidavit as well as letter, I direct the Registry to list all the writ petitions, as mentioned in the affidavit before this Bench, so that, the same can be disposed of, in terms of affidavit or order being passed by this Court, after informing the counsel representing the respective parties.

19.07.2019
Yogesh Sharma

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned	Yes/ No
Whether Reportable	Yes/ No